

## **EXHIBIT 1**

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**BY FACSIMILE**

Edward Notargiacomo, Esq.  
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Cambridge, MA 02142

**Re: In re Pharmaceutical Industry Average Wholesale Price  
Litigation, MDL No. 1456 – Class Notice Issues**

Dear Ed:

I write on behalf of our clients Bristol-Myers Squibb Company and Oncology Therapeutics Network Corporation (together, "BMS") regarding the draft class notice you sent to Davis Polk & Wardwell, as counsel for AstraZeneca. Davis Polk has forwarded to me the draft notice as well as their letter to you responding to the draft. On behalf of BMS, we adopt and incorporate Davis Polk's comments as they relate to aspects of the draft that apply to all defendants. We also have the following additional comments:

1. There should be separate notices for Classes 1, 2 and 3. Especially since Class 1 is comprised of elderly individuals or their survivors in many states, the class members will be unduly confused by the inclusion of claims extraneous to them and/or references to Massachusetts. I have edited the draft to reflect what BMS believes is a more proper form of notice limited to Class 1 members. Plaintiffs can easily adapt BMS' comments to create forms of notice for the other classes.
2. The BMS drug "Coumadin" should not appear in any of the notices. It is not usually administered in injectible form and, accordingly, has never been part of Dr. Hartman's damages analyses or either party's summary judgment motion.
3. BMS' subsidiary, Apothecon, should also be deleted from the notices. It did not manufacture any of the drugs that have been certified for class treatment.

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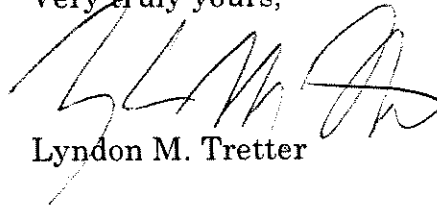
4. The description of drug companies' practice of reporting AWP's to industry trade publications is inaccurate as to BMS.

5. The cut-off dates by which absent class members act must be before a decision by the Court on the pending BMS summary judgment motion.

6. It should be clear that the notices are drafted by class counsel. No attempt should be made to suggest that the Court has endorsed the claims or defenses.

Please see the enclosed redline of your proposed notice (and an enclosed "clean" copy of my revisions) for other line-specific edits, as well as a fuller and more appropriate description of BMS' defense.

Very truly yours,



Lyndon M. Tretter

/lmt  
Enclosures

cc : All counsel of record (via LEXIS/NEXIS)